

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|--|---|---------------------|
| MICHAEL ELLISON, | : | |
| Plaintiff, | : | CIVIL ACTION |
| v. | : | NO. 13-3378 |
| | : | |
| C/O MAURICE CRUMP <i>et al.</i> | : | |
| Defendants. | : | |
| | : | |

ORDER

AND NOW, this 10th day of February, 2014, upon consideration of the Partial Motion to Dismiss Plaintiff's Amended Complaint filed by Defendants Joseph McCreary, Maurice Crump, and Silver Black [Doc. No. 9], and Defendant Maurice Crump's Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 11] it is hereby ORDERED as follows:

1. The Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 9] as to Defendant Black for failure to serve, is deemed MOOT;¹
2. The Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 9] as to Defendant Crump for failure to serve is deemed MOOT;²
3. To the extent the First Amended Complaint [Doc. No. 8] is based upon an alleged violation of the Eighth Amendment to the Constitution, those allegations are dismissed;
4. The remainder of Defendants' Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 9] is DENIED; and

¹ The Court had previously dismissed Defendant Black from this case on September 5, 2013 (Doc. No. 10).

² In Officer Crump's September 15, 2013 Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 11], he waived service of process.

5. The remainder of Defendant Maurice Crump's Partial Motion to Dismiss Plaintiff's Amended Complaint [Doc. No. 11] is DENIED.

It is so ORDERED.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE